

ing the rights of appeal in cases where decrees or orders to account have been passed by the chancery courts; and a preliminary point was raised by the counsel, with respect to the questions which were properly open for adjudication on this appeal.

The *first* section of the act provides—"That an appeal may be taken from any decree or order of the court of chancery, or county court sitting as a court of equity, determining a question of right between the parties, and directing an account to be stated on the principle of each determination:" and it is clear, that in our examination of the order, we can only inquire into the correctness of the principles announced by the Chancellor as the basis of the Auditor's report. The right of appeal from these interlocutory orders has been conferred only where a question of right has been determined between the parties, and an account directed to be stated on the principles of such determination—and it must be evident that we could not consider any other questions than those determined by the court below for the government of the Auditor, without exercising original jurisdiction. A power incompatible with the character and attributes of this tribunal, and certainly not intended to be communicated by the statute under which this appeal has been taken.

With respect then to the first question decided by the Chancellor, we think he erred in regarding this partnership as subsisting until the 31st of August, 1841.

The doctrine upon this subject has been stated with clearness and accuracy by Judge Story in his late work on partnership. He says,—“although the partnership be fixed for a particular term or period, yet it is always understood as an implied condition or reservation, unless the contrary is expressly stipulated, that it is dissolved by the death of either of the partners at any time within the period. This doctrine is founded in equitable principles, and is the natural result of the peculiar objects of the contract. Every partnership is founded in a *delectus personæ*, which implies confidence and knowledge of the character, skill, and ability of the other associates; and their